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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/748,800 | 12/22/2000 | Gabriel Raviv | 29888/36773 | 3527 |

4743 7590 07/18/2003

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EXAMINER

LE, HUYEN D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2643

DATE MAILED: 07/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,800

Applicant(s)

RAVIV, GABRIEL

Examiner

HUYEN D. LE

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-23 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: ____.

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Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 26 on page 3, line 20, and 20 on page 5, line 1 can not be found in the drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, 12- 17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziarti (U.S. patent 5,627,902).

Regarding claims 1, 3, 5, 19 and 23, Ziarati teaches a method and an apparatus of an earpiece which comprises a first baffle and a cover (24, 26) having a first cavity, a second baffle (25) positioned within the first cavity as claimed (figures 2A, 2B and 3).

Ziarati does not specifically teach that the earpiece is for auditory testing. However, it would have been obvious to one skilled in the art to apply the Ziarati device in any application such as in the auditory testing for greater application.

Regarding claim 2, Ziarati teaches the second baffle (25) which is coupled to a sound source (3, figure 2).

Regarding claim 4, Ziarati does not specifically teach an adhesive which attaches the first baffle (26) to the first side of the cover (24). However, providing an adhesive for attaching a cushion member to the earcup is very well-known in the art.

Therefore, it would have been obvious to one skilled in the art to provide an adhesive for attaching the first baffle (the cushion member 26) to the cover (24) of the Ziarati headphone for securely attaching the parts together.

Regarding claim 6, Ziarati shows the plane in front of the cover is planar (figure 2B).

Regarding claims 7 and 22, Ziarati does not specifically teach that at least a portion of the cover is substantially transparent.

However, Ziarati does not restrict to any material for the cover; it therefore would have been obvious to one skilled in the art to provide any material for the cover (24, 26) of Ziarati such as a substantially transparent material for a designed choice and better blocking noise.

Regarding claim 8, Ziarati teaches a conductive element which is coupled to the first baffle (figure 1).

Regarding claim 12, Ziarati shows the second baffle as claimed (figure 3).

Regarding claims 13-14, 16 and 20-21, Ziarati shows a tube (22), the second baffle (25) and a transducer (21) as claimed (figures 1, 2A, 2B and 3).

Regarding claim 15, Ziarati shows the cover which has an aperture (figure 2A) as claimed.

Regarding claim 17, Ziarati teaches the first baffle (26) which is made by soft and comfortable cushions.

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Ziarati does not specifically teach the baffle which is made of flexible foam material.

However, providing a flexible foam material for the earcups is very well-known in the art.

Therefore, it would have been obvious to one skilled in the art to provide any cushioning material for the Ziarati device such as a flexible foam material for a comfort and better blocking noise.

4. Claims 1-8 and 11- 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beguin (U.S. patent 3,160,717).

Regarding claims 1, 3, 5, 19 and 23, Beguin teaches a method and an apparatus of an earpiece which comprises a first baffle and a cover (12, 14, 16, 22) having a first cavity, a second baffle (20, 24, 36, 74) positioned within the first cavity as claimed (figures 3, 6, 7).

Beguin does not specifically teach that the earpiece is for auditory testing. However, it would have been obvious to one skilled in the art to apply the Beguin headphone in any application such as in the auditory testing for greater application.

Regarding claim 2, Beguin teaches the second baffle which is coupled to a sound source (50, 52, 52a).

Regarding claims 4 and 11, Beguin teaches an adhesive which attaches the first baffle (22) to the first side of the cover (12, 16 col. 3, lines 7-12).

Regarding claim 5, Beguin shows the cover (12) is non-planar (figures 3, 6, 7).

Regarding claim 6, Beguin shows the cover (16) is planar (figure 2).

Regarding claims 7 and 22, Beguin does not specifically teach that at least a portion of the cover is substantially transparent.

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However, Beguin does not restrict to any material for the cover; it therefore would have been obvious to one skilled in the art to provide any material for the cover (24, 26) of Beguin such as a substantially transparent material for a designed choice and better blocking noise.

Regarding claim 8, Beguin shows a conductive element which is coupled to the first baffle (12, 16).

Regarding claim 10, the conductive element of Beguin comprises a tab portion that extends past the first baffle (figures 3, 7).

Regarding claim 11, Beguin does not specifically teach a conductive adhesive coating covering at least a portion of the first baffle as claimed.

However, Beguin does show an electrical connecting terminal (58) in the first baffle (12 16), and providing a conductive adhesive coating in the connecting terminals is known in the art.

Therefore, it would have been obvious to one skilled in the art to provide a conductive adhesive coating in the terminal (58) of Beguin for providing better electrical connections in the terminal.

Regarding claim 12, Beguin shows the second baffle as claimed (figures 3, 7).

Regarding claims 13-14, 16 and 20-21, Beguin shows a tube (74), the second baffle (20, 24, 36) and a transducer (50, 52) as claimed.

Regarding claim 15, Beguin shows the cover which has an aperture (figure 7) as claimed.

Regarding claim 17, Beguin teaches the first baffle (22) which is made of flexible foam (col. 3, lines 9-11).

Regarding claim 18, Beguin teaches the second baffle which is made of flexible foam (col. 3, lines 61-62).

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Allowable Subject Matter

5. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (703)305-4844. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9313 for regular communications and (703)872-9313 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5631.



HL
July 14, 2003



HUYEN LE
PRIMARY EXAMINER